

GAHC010267262022



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : AB/3831/2022

DR HABIB SHAHIDUL ISLAM
S/O LATE KALIM UDDIN
R/O VILL- NANGALKUR, P.O. BHATKUCHI, DIST. BARPETA, ASSAM
PIN-781314

VERSUS

THE STATE OF ASSAM
TO BE REP. BY THE PP, ASSAM

Advocate for the Petitioner : MRS. B GOGOI

Advocate for the Respondent : PP, ASSAM

BEFORE
HONOURABLE MRS. JUSTICE SUSMITA PHUKAN KHAUND

ORDER

Date : 12-04-2023

1. Heard Mr. S Munir, learned counsel for the petitioner, ***Dr. Habib Shahidul Islam*** and Mr. D Das, learned Addl. PP, appearing for the State.
2. The petitioner has filed an application under section 438 Cr.P.C., with prayer for pre arrest bail in connection with Barpeta PS Case No.1058/2022

under section 120(B)/468/471/417 IPC.

3. I have considered the submissions at the bar and have also perused the case diary.

4. It is submitted on behalf of the petitioner that his bail prayer was earlier rejected by this Court vide order dated 29.11.2022 in connection with Case No.AB 3468/2022.

5. The petitioner's new ground for filing a subsequent bail petition is that investigation has progressed to a considerable extent. The petitioner is the Principle of Sreemanta Sankar Madhaw College and his image will be tarnished in the event of his arrest. It is also submitted that the petitioner is innocent and he has been roped in, in a blanket manner.

6. The learned Addl. PP has raised serious objections stating that this is not a case where pre arrest bail can be granted. This is an offence against the society and it is an economic offence.

7. The FIR unfolds that on 27.10.2022 at about 12.00 PM, an information was received from a reliable source regarding illegal activities by some persons within Barpeta PS. Scholarships were applied under the Ishan Udai, MCM, Pre Metric Scholarship scheme through NSP (National Scholarship Portal) for many fake students of the district of Barpeta and many fake students have already received Rs.78,000/- each and some fake students have received Rs.30,000/- each. A general diary entry was made by the O.C Barpeta and during the course of enquiry Jehirul Islam and Habibur Rahman were picked up on 29.10.2022 for interrogation. They revealed that they had applied for merit scholarship under the Ishan Udai Scheme by posing as students of Barpeta Bongaigaon college (BB College) Kalgachia in the year 2018.

8. Again in the year 2022 Jehirul Islam managed to procure Rs.30000/- under the MCM scheme by posing as a student of an institute

at Bangalore. Both Jehirul and Habibur also stated that they introduced several fake students for Nathgir college, Bangalore, Madani College of Pharmacy, Karnataka, Sowkhya Institute of Nursing Science, Karnataka and they also provided bank account numbers which did not belong to the students in whose name they had applied for the scholarships and thus cheated the authority.

9. Both the above named accused confessed that they have applied for scholarships under pre metric scholarship, MCM (Merit cum means) schemes for more than 300 fake students. They have also mentioned the names of 1. Minhajul Haque, 2. Rakibul Islam, 3. Jakir Hussain, 4. Rakibul Islam 5. Riajul Karim and 6. Selim Malik.

10. I have perused the case diary.

11. It is true that indeed there are cogent materials in the case diary against the petitioner.

12. The statement of witnesses under section 161 Cr.P.C. incriminates the present petitioner. The scholarships that were disbursed under Ishan Udai scheme and the MCM scheme were diverted to the accounts of the miscreants who were involved in this racket. In this manner several miscreants have amassed wealth which is apparent from the materials in the case diary.

13. I have considered the nature of allegation.

14. The petitioner has also prayed for bail on the grounds of parity as the co accused Jakir Hussain was granted bail under section 439 Cr.P.C. and other co accused Sikandar Ali Ahmed and Nurul Islam are on interim pre arrest bail in connection with Case No.AB 3823/2022.

15. The grounds of parity cannot be considered in this case because of the incriminating materials found in the case diary against the present petitioner.

16. The petition with prayer for anticipatory bail is rejected at this juncture.
17. Send back the case diary.

JUDGE

Comparing Assistant